

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

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In re:

South Wind Financial, Inc.,
Respondent.

**NOTICE OF INTENT TO IMPOSE FINE AND
NOTICE OF RIGHT TO REQUEST HEARING**

The licensing and regulation of mortgage brokers and mortgage agents in the State of Nevada is governed by Chapter 645B of the Nevada Revised Statutes (hereinafter, "NRS") and Chapter 645B of the Nevada Administrative Code (hereinafter, "NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter, the "Division") has the general duty to exercise supervision and control over mortgage brokers and mortgage agents, as well as mortgage brokering activity. See, NRS 645B.060(1), NRS 645B.690 (1)(a) and NRS 645B.670. Pursuant to that authority, the Division makes the following Findings of Fact, Conclusions of Law, and Order as follows:

FACTUAL ALLEGATIONS

1. Upon information and belief, South Wind Financial, Inc. (hereinafter, "Respondent") is a Corporation in the State of Nevada currently licensed to operate as a mortgage broker in the State of Nevada.

2. Upon further information and belief, Sandra Menard is the President of Respondent.

3. On March 9, 2009, the Division conducted a regularly scheduled examination of Respondent and determined Derek Parent engaged in loan activity (Wurst, Scheid, and Ayele/Riktu) in Nevada, without either a mortgage broker or mortgage agent license and

1 David Allende engaged in loan activity (Smith) without either a mortgage agent or mortgage
2 broker license.

3 4. On March 18, 2009, the Division received a Complaint alleging Respondent
4 was allowing Derek Parent to conduct unlicensed mortgage activity in the State of Nevada.
5 The Division then commenced an investigation, the results of which established Respondent
6 employed Derek Parent and allowed him to conduct unlicensed mortgage activity on the
7 Wurst, Scheid, and Ayele/Riktu loans and allowed him to originate the Jones loan.
8 Respondent also allowed David Allende to conduct unlicensed mortgage activity on the Smith
9 loan in the State of Nevada.

10 5. Pursuant to NRS 645B.060, the Division is charged with conducting "...such
11 investigations as may be necessary to determine whether any person has violated any provision
12 of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner."
13 See, NRS 645B.060(2)(c).

14 6. Pursuant to NRS 645B.610, the Division is further charged with investigating
15 "...each violation alleged in [a] complaint..." received by the Division and "...shall determine
16 from the investigation whether there is reasonable cause to believe that the [accused]
17 committed the alleged violation..." See, NRS 645B.610(1)(3).

18 7. Pursuant to NRS 645B.0127, a "mortgage broker" is defined, in pertinent part, as
19 "...a person who directly or indirectly... holds himself out for hire to serve as an agent for any
20 person in an attempt to obtain a loan which will be secured by a lien on real property..." or
21 "...holds himself out as being able to make loans secured by liens on real property..." See,
22 NRS 645B.0127(1)(a)(c).

23 8. Pursuant to NRS 645B.0125, a "mortgage agent" is defined, in part, as "...a
24 natural person who... is an employee or independent contractor of a mortgage broker who is
25 required to be licensed pursuant to this chapter..." and "...is authorized by the mortgage broker
26 to engage in, on behalf of the mortgage broker, any activity that would require the person, if he
27 were not an employee or independent contractor of the mortgage broker, to be licensed as a
28 mortgage broker pursuant to this chapter..." See, NRS 645B.0125 (1)(a)(b).

9. Pursuant to NRS 645B.450 (2), "A mortgage broker shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410".

10. Pursuant to NRS 645B.670 (2) (c), "...for each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such... [D]oes not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner. See, NRS 645B.670 (2) (c).

VIOLATIONS OF LAW

1. Having investigated the Respondent's conduct in this matter and received competent evidence that Respondent employed Derek Parent and David Allende who conducted mortgage activity and originated mortgage business in the State of Nevada while unlicensed, it has been determined that Respondent did in fact violate NRS 645B.450 (2).

ORDER

NOW, THEREFORE, the COMMISSIONER of the DIVISION HEREBY ORDERS pursuant to NRS 645B.750, upon written application to the Division within **twenty (20) days** of the date of this order, Respondent shall be entitled to a hearing with regard to the contents of this Order. At that hearing the Division will seek to:

a. Impose a fine of Five Thousand Dollars and No Cents (\$5,000.00) for Respondent's violations of NRS Chapter 645B as well as the Division's investigative costs in the amount of Two Hundred Seventy Dollars and No cents (\$270.00) and attorneys fees, if any, incurred herein, to be proven at the hearing.

b. Respondent's payment, in full, of the administrative fine, costs and fees to the Division within **thirty (30) days** of the entry of the Final Order

1 Should Respondent not request a hearing with **twenty (20) days** of the date of this
2 Order, the Division will enter a Final Order in this matter against Respondent, pursuant to NRS
3 645B.750(2).
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5 DATED this 10th day of June, 2009.
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8 **STATE OF NEVADA**
9 **DEPARTMENT OF BUSINESS AND INDUSTRY**
10 **DIVISION OF MORTGAGE LENDING**

11 By: Joseph L. Waltuch
12 **JOSEPH L. WALTUCH, COMMISSIONER**
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CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on June 12, 2009, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for SOUTH WIND FINANCIAL INC., addressed as follows:

Sandra Menard
South Wind Financial Inc.
2980 S. Rainbow Blvd, Ste. 100F
Las Vegas, NV 89146

Certified Receipt Number: 7006 2760 0000 0876 2674

DATED this 11th day of June, 2009

By: 

Employee of the Division